

FILED

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GRIEVANCE COMMISSION

BEFORE THE GRIEVANCE COMMISSION OF
THE SUPREME COURT OF IOWA

IOWA SUPREME COURT
ATTORNEY DISCIPLINARY BOARD,

Docket No. 832

Complainant,

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND RECOMMENDATIONS

v.

JASON A. SPRINGER,

Respondent.

Introduction

On July 24, 2014, Jason A. Springer ("Springer") was indicted by a grand jury for Southern District of Iowa for eight counts of bank fraud pursuant to 18 U.S.C. Sec. 1344(1) which makes it a crime to defraud a financial institution. The prosecution alleged Springer submitted materially false HUD-1 settlement statements in eight different real estate closings between 2009 and 2011. Springer pled not guilty and the case was tried to a jury. Springer did not testify in the criminal case. One of the eight initial counts was dismissed by the prosecution. On February 12, 2015, a jury convicted Springer of the seven remaining counts of bank fraud. Springer was sentenced in August 2016. Springer appealed and his appeal remained pending at the time of Grievance Commission hearing. Springer's convictions were affirmed by the Eighth Circuit Court of Appeals on August 9, 2017. Springer's law license was suspended indefinitely by the Supreme Court in November 2016 pursuant to operation of court rule as a result of the convictions.

On October 25, 2016, Complainant, the Iowa Supreme Court Attorney Disciplinary Board ("Board"), filed its Complaint against Respondent, Jason A. Springer, alleging that Springer

engaged in misconduct by: (1) assisting a client in conduct that the lawyer knows is criminal or fraudulent; (2) representing a client, or where representation has commenced, not withdrawing from the representation, if the representation will result in violation of the Iowa Rules of Professional Conduct or other law; (3) knowingly making a false statement of material fact or law to a third person in the course of representing a client; (4) in the course of representing a client, knowingly failing to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client and is not otherwise prohibited; and (5) committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. The Complaint further alleged Springer's conduct violated Iowa Code Sec. 602.10122. The Board's Complaint pled the required elements to invoke the offensive use of issue preclusion. Springer requested and was granted extension of time to file Answer. Springer filed Answer on December 2, 2016. On December 28, 2016, the Board filed an Issue Preclusion Notice. Hearing on this matter was held on May 18, 2017, before the 552nd Division of the Iowa Supreme Court Grievance Commission, a Commission of the Supreme Court of Iowa, at the Judicial Branch Building in Des Moines, Iowa. Springer appeared and was represented by counsel, Mark McCormick. Attorney Wendell J. Harms represented the Board.

Allegations

The Board alleges that Springer's conduct violated the following Iowa Rules of Professional Conduct:

A. Rule 32:1.2(d): A lawyer shall not assist the client in conduct the lawyer knows is criminal or fraudulent.

B. Rule 32:1.16(a)(1): Except . . . [not applicable herein] . . . , a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the Iowa Rules of Professional Conduct or other law.

C. Rule 32:4.1(a): In the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person.

D. Rule 32:4.1(b): In the course of representing a client, a lawyer shall not knowingly fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 32:1.6.

E. Rule 32:8.4(b): It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.

The Board alleges Springer's conduct as outlined in the Complaint violated Iowa Code Sec. 602.10122.

Findings of Fact

Based upon the evidence that was submitted at hearing, the Grievance Commission finds:

1. Springer was licensed to practice law in the State of Iowa in 2002. (Complaint, Para. 2. Respondent's Answer, Para. 2.)
2. Springer, at all times relevant to the allegations of the Complaint, was a licensed and practicing attorney in the State of Iowa and maintained his residence in Boone County, Iowa. (Complaint, Para. 3. Respondent's Answer, Para. 3.)

3. In 2001 or 2002 Springer's law practice began in the area of real estate assisting a few mortgage brokers with some title work and closings. (Tr. p. 13, ll. 20-24.)

4. In 2005, Springer joined with another attorney, and a hired associate, and began doing closings which included title, preparation of settlement statements, cutting of checks, and disbursal of money. (Tr. p. 14, ll. 10-25.) During this time Springer would also prepare HUD-1 settlement statements. (Tr. p. 31, ll. 16-18.)

5. Springer testified that by 2006 he no longer was preparing HUDs and settlement statements but rather had staff for that. (Tr. p. 31, ll. 20-21.)

6. Springer acknowledged that as the attorney with his office working on the HUDs that he was the attorney responsible for the HUDs. (Tr. p. 119, l. 21 to p. 120, l. 1-2.)

7. In 2008 and 2009 [Springer's] firm began to do a "lot of real estate" (Tr. p. 15, l. 1) with staff continuing to prepare the settlement statements and cut checks (Tr. p. 15, ll. 10-11) and Springer going in and meeting with the parties and collecting the money at close. (Tr. p. 15, ll. 15-17.)

8. Around this time [2008] Springer estimated that his firm would "easily do 150 to 200 closings a month" and that he sometimes would do up to "21 closings in one day." (Tr. p. 29, ll. 21-24.)

9. In October 2008, Springer organized All-American Loan Modification, L.L.C. for Nathan Smith ("Smith") and Patrick Steven ("Steven"). (Tr. p. 19, l. 17 to p. 20, l. 6.) Springer also filed for them a fictitious name resolution for All-American Loan Modification, L.L.C. d/b/a Iowa Loan Modification. (Tr. p. 20, ll. 7-18.)

10. In October 2008, Springer organized Iowa Short Sales, L.L.C. for Smith and Steven. (Tr. p. 22, ll. 21 to p. 23, l. 3.) Springer also established a fictitious name for this L.L.C. of Central Iowa Homebuyers. (Tr. p. 23, ll. 4-8.)

11. Smith and Steven, at all times relevant to the allegations of the Complaint, owned All-American Loan Modification, L.L.C. a/k/a Iowa Loan Modification and Iowa Short Sales, L.L.C. a/k/a Central Iowa Homebuyers, through which they negotiated short sales with lenders on behalf of homeowners, purchased homes on short sale, and resold the homes for a profit. (Complaint, Para. 4. Respondent's Answer, Para. 4.)

12. Springer testified that between 2008 and 2011 he conducted about 42 closings for his clients Iowa Loan Modification or Iowa Short Sales. (Tr. p. 31, ll. 4-7.)

13. Springer's average fee collected for handling the Smith and/or Steven [or their companies] closings was \$325 to \$350. (Tr. p. 32, ll. 4-16.)

14. Springer testified he had closed 10,000 to 12,000 loans by the time he had met Smith and Steven. (Tr. p. 86, ll. 2-19.)

15. Springer testified he closed 15,000 to 20,000 loans as part of his practice. (Tr. p. 86, ll. 19-21.)

16. The Grievance Commission finds Springer was an experienced real estate attorney at all times relevant to the allegations of the Complaint.

17. On July 24, 2014, a grand jury for Southern District of Iowa indicted Springer for eight counts of bank fraud pursuant to 18 U.S.C. Sec. 1344(1) which makes it a crime to defraud a financial institution. (Ex. 1.) Count 5 of the original indictment was subsequently dismissed by the prosecution. (Ex. 7, p. 1.)

18. The prosecution's case in the criminal proceedings was essentially that notwithstanding what the HUD-1 settlement statements in question stated about cash from borrower/buyer, Smith and/or Steven [or their companies] did not bring their own money to the A-B transaction [referred to as the short-sale]; that the same day as the short-sale Smith and/or Steven with the legal assistance of Springer, would close a B-C transaction [sale to ultimate buyer of same property]; and that the HUD-1s in the A-B transaction were materially false because Smith and/or Steven and Springer were aware that borrower/buyer did not bring cash to close but rather the money from the B-C transaction was being used to fund the A-B transaction. (Tr. p. 54, l. 9 to p. 55, l. 16 & Ex. 5, p. 2.)

19. At Springer's trial, co-defendant Smith testified that Springer knew that the checks he gave to Springer in the A-B transactions did not have sufficient funds behind them. (Tr. p. 157, ll. 11-16.)

20. The case proceeded to jury trial in February 2015. Springer did not testify. At the conclusion of trial the jury was given the following instructions on the elements of bank fraud:

ONE, On or about the date alleged in the indictment, in the Southern District of Iowa, [Springer] knowingly executed a scheme to defraud a financial institution;

TWO, [Springer] did so with the intent to defraud; and

THREE, the financial institution was insured by The Federal Deposit Insurance Corporation or was a mortgage lending business.

(Ex. 3, p. 9.)

21. On February 12, 2015, the jury convicted Springer of seven counts of bank fraud in violation of 18 U.S.C. Sec. 1344 as charged in the Indictment. (Ex. 4.)

22. On August 3, 2016, Springer was sentenced to serve four months in prison on each of the seven counts, all counts to be served consecutively; two years supervised release on each of the seven counts, all counts to be served consecutively; to pay a fine of \$15,000 and \$700 in costs. (Ex. 7.)

23. Springer's fine of \$15,000 appears to have been calculated to approximate the \$14,500 in closing fees Springer's law firm was paid during the ongoing scheme to defraud lenders. (Ex. 5, p. 3.)

24. U.S. District Court for the Southern District of Iowa, Judge Jarvey, determined that defendants Steven, Smith and Springer had a combined net gain from these offenses that exceeded \$200,000 and that amount of net gain was reasonably foreseeable to all of them. (Ex. 5, p. 4.)

25. The U.S. Court of Appeals for the Eighth District found, and the Grievance Commission agrees, that the underlying scheme to defraud subjected the financial institutions to a risk of loss. In pertinent part, it determined that "each time a financial institution approved a short sale based on misleading information, it relinquished its mortgage interest for less than what it could have if it had known the actual circumstances; therefore, each time the scheme was executed, the financial institution suffered an actual loss, and therefore a risk of one." It went on to find that the financial institution exposed itself to the risk of a significant loss after the release of mortgage should the accounts on which the checks were drawn not contain sufficient funds to cover the late checks. *United States v. Springer*, No. 16-3498, 8 (8th Cir. 2017).

26. Springer served his term of imprisonment from November 2016 through February 2017. (Tr. p. 60, ll. 13-20.)

27. Springer is scheduled to be discharged from supervised release in either February 2018 or 2019. (Tr. p. 63, l. 15 to p. 64, l. 3.)

28. Springer has paid the \$700 assessment and is making payments of \$500 per month on the \$15,000 fine. (Tr. p. 64, ll. 4-16.)

29. The Grievance Commission finds that the Board properly pled and proved all elements required to invoke the doctrine of issue preclusion and for its use offensively. (Complaint, Para. 33-39. Answer, Para. 33-37. Tr. p. 11, ll. 2-4. Tr. p. 12, ll. 1-9. Tr. p. 46, ll. 8-16. Tr. p. 47, ll. 4-13.)

30. Springer agreed that the offensive use of the doctrine of issue preclusion applied in the circumstance and that all the necessary elements for said application were pled and present in the case. (Complaint, Para. 33-39. Answer, Para. 33-37. Tr. p. 11, ll. 2-4 regarding elements of doctrine of issue preclusion.) (Tr. p. 12, ll. 1-9. Tr. p. 46, ll. 8-16. Tr. p. 47, ll. 4-13 regarding offensive use of issue preclusion.)

31. The Grievance Commission finds the offensive use of the doctrine of issue preclusion applies.

32. The Grievance Commission finds issue preclusion establishes that on July 24, 2009, Springer knowingly and with intent executed a scheme to defraud a financial institution, Wells Fargo, by submitting, or causing to be submitted, a materially false HUD-1 settlement statement stating that Nathan Smith paid \$34,499.20 in cash to purchase a home on 1st Avenue in Slater, Iowa (Ex. 3, p. 7) and that this conduct was the basis of Springer's conviction for Count 1 - bank fraud, in violation of 18 U.S.C. Sec. 1344. (Ex. 4, p. 1.)

33. The Grievance Commission finds issue preclusion establishes that on March 19, 2010, Springer knowingly and with intent executed a scheme to defraud a financial institution, Bank of America, by submitting, or causing to be submitted, a materially false HUD-1 settlement statement stating that Nathan Smith and Patrick Steven paid \$58,766.48 in cash to purchase a home on E. Rose Avenue in Des Moines, Iowa (Ex. 3, p. 7) and that this conduct was the basis of Springer's conviction for Count 2 - bank fraud in violation of 18 U.S.C. Sec. 1344. (Ex. 4, p. 1.)

34. The Grievance Commission finds issue preclusion establishes that on May 14, 2010, Springer knowingly and with intent executed a scheme to defraud a financial institution, US Bank, by submitting, or causing to be submitted, a materially false HUD-1 settlement statement stating that Nathan Smith paid \$58,901.84 in cash to purchase a home on Kenyon Avenue in Des Moines, Iowa (Ex. 3, p. 8) and that this conduct was the basis of Springer's conviction for Count 3 - bank fraud in violation of 18 U.S.C. Sec. 1344. (Ex. 4, p. 2.)

35. The Grievance Commission finds issue preclusion establishes that on June 18, 2010, Springer knowingly and with intent executed a scheme to defraud a financial institution, CitiMortgage, by submitting, or causing to be submitted, a materially false HUD-1 settlement statement stating that Patrick Steven paid \$125,522.31 in cash to purchase a home on E. 52nd Street in Des Moines, Iowa (Ex. 3, p. 8) and that this conduct was the basis of Springer's conviction for Count 4 - bank fraud in violation of 18 U.S.C. Sec. 1344. (Ex. 4, p. 2.)

36. The Grievance Commission finds issue preclusion establishes that on December 21, 2010, Springer knowingly and with intent executed a scheme to defraud a financial institution, CitiMortgage, by submitting, or causing to be submitted, a materially false HUD-1 settlement

statement stating that Nathan Smith paid \$26,453.20 in cash to purchase a home on Garden Avenue in Des Moines, Iowa (Ex. 3, p. 8) and that this conduct was the basis of Springer's conviction for Count 6 - bank fraud in violation of 18 U.S.C. Sec. 1344. (Ex. 4, p. 2.)

37. The Grievance Commission finds issue preclusion establishes that on February 18, 2011, Springer knowingly and with intent executed a scheme to defraud a financial institution, GMAC, by submitting, or causing to be submitted, a materially false HUD-1 settlement statement stating that Nathan Smith paid \$62,321.41 in cash to purchase a home on 56th Street in Des Moines, Iowa (Ex. 3, p. 8) and that this conduct was the basis of Springer's conviction for Count 7 - bank fraud in violation of 18 U.S.C. Sec. 1344. (Ex. 4, p. 3.)

38. The Grievance Commission finds issue preclusion establishes that on March 25, 2011, Springer knowingly and with intent executed a scheme to defraud a financial institution, JP Morgan Chase Bank, by submitting, or causing to be submitted, a materially false HUD-1 settlement statement stating that Nathan Smith paid \$371,737.20 in cash to purchase a home on 142nd Street in Urbandale, Iowa (Ex. 3, p. 9) and that this conduct was the basis of Springer's conviction for Count 8 - bank fraud in violation of 18 U.S.C. Sec. 1344. (Ex. 4, p. 3.)

39. Springer denies based upon the facts and circumstances presented that he violated any of the Iowa Rules of Professional Conduct alleged in the Complaint. (Tr. p. 124, ll. 14-20.)

40. Springer agrees that the effect of his conviction of seven counts of bank fraud establishes, as a matter of law, all of the ethical violations charged by the Board in these proceedings. (Tr. p. 124, l. 23 to p. 125 l. 3.)

Violations

A. Rule 32:1.2(d) and B. Rule 32:1.16(a)(1)

Rule 32:1.2(d) states, in pertinent part, that a lawyer shall not counsel a client to engage, or assist a client, in conduct the lawyer knows is criminal or fraudulent. Rule 32:1.16(a)(1) states, in pertinent part, a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the Iowa Rules of Professional Conduct or other law. Springer does not contest that application of issue preclusion with regard to the elements and facts that form the basis for his convictions of bank fraud establishes that he violated Rule 32:1.2(d) and Rule 32:1.16(a)(1). (See Para. 20, 21, and 32-38 above.)

The crimes of bank fraud for which Springer was convicted required a finding that Springer knowingly executed a scheme to defraud and did so with the intent to defraud. Springer knowingly executed a scheme to defraud the financial institutions and did so with the intent to defraud when Springer assisted Smith and/or Steven [or their companies] in conduct Springer knew was criminal or fraudulent by submitting, or causing to be submitted, a materially false HUD-1 settlement statement stating that Smith and/or Steven paid cash to purchase the homes involved in the short-sales [A-B transaction]. Springer's ongoing representation of Smith and/or Steven in their scheme to defraud lenders included representation in seven separate transactions spanning over a two year period. Springer's conduct ultimately resulted in his convictions upon seven counts of bank fraud. Springer's clients, Smith and Steven, were also indicted and convicted of bank fraud for their part in the fraudulent scheme.

The Grievance Commission concludes that application of the doctrine of issue preclusion establishes by a convincing preponderance of the evidence that Springer violated Rule 32:1.2(d) and Rule 32:1.16(a)(1).

C. Rule 32:4.1(a) and D. Rule 32:4.1(b)

Rule 32:4.1(a) states, in the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person. Rule 32:4.1(b) states, in the course of representing a client, a lawyer shall not knowingly fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 32:1.6. The plain language of Rule 32:4.1(b) requires that, in order for an attorney's failure to disclose a material fact to violate this rule, disclosure must be necessary for the attorney to avoid assisting his client in perpetrating a crime or fraud. (Citations omitted.) Springer does not contest that application of issue preclusion with regard to the elements and facts that form the basis for his convictions of bank fraud establishes that he violated Rule 32:4.1(a) and Rule 32:4.1(b). (See Para. 20, 21, and 32-38 above.)

The crimes of bank fraud for which Springer was convicted required a finding that Springer knowingly executed a scheme to defraud and did so with the intent to defraud. Springer knowingly executed a scheme to defraud the financial institutions and did so with the intent to defraud when Springer assisted Smith and/or Steven [or their companies] in conduct Springer knew was criminal or fraudulent by submitting, or causing to be submitted, a materially false HUD-1 settlement statement stating that Smith and/or Steven paid cash to purchase the homes involved in the short-sales [A-B transaction].

With regard to Rule 32:4.1(b) the Grievance Commission further concludes that Springer was authorized to disclose to the lenders the fraudulent and criminal acts of his clients under Rule 32:1.6(b)(2) and (b)(3). Although not specifically argued by Springer as constituting disclosure [indeed he could not so argue and maintain denial of having contemporaneous knowledge of his clients' fraudulent or criminal acts] the Grievance Commission considered and hereby declines to characterize as disclosure(s), the below actions taken by Springer which may have alerted lenders to inquire further into possible wrongdoing on the part of Smith and/or Steven.

"Now, one thing that I did do right from the beginning was I had them [Smith and Steven] in every purchase agreement put in there stating they would - - they were going to sell the property at a higher value at a very close, if not same day. Then I had them put that in the purchase agreement, frankly, so that the lenders without telling them would know, look, my clients are going to resell the property for a higher value." (T. p. 39, ll. 13-21.)

Q. Did you know at the time when these transactions were occurring that was the case [referencing Smith and/or Steven providing materially false affidavits while negotiating with lenders wherein Smith and/or Steven failed to disclose they were not bona fide purchasers]?

A. I never - - I had no clue. In fact, to - - at the time to kind of just to make sure that everybody knew if they were going to do that, I filed with the Secretary of State's office stating that, look, Nathan Smith and Patrick Steven were members of Iowa Short Sales and Central Iowa Homebuyers. And so, in other words, they couldn't hide behind corporate structure.

And so if Nate Smith calls Wells Fargo and says, I want to - - I'm going to - - I'm willing to try and negotiate this short sale down to \$80,000, that person on the other end at Wells Fargo could easily look up on the Secretary of State's website and see that the buyer, member manager, is Nate Smith, the same person they are talking to.

So I tried to, without breaking attorney/client privilege, trying to at least make it publicly aware that the - - But I didn't even know that they were doing that.

(T. p. 75, l. 11 to p. 76, l. 6.)

The Grievance Commission concludes that application of the doctrine of issue preclusion establishes by a convincing preponderance of the evidence that Springer violated Rule 32:4.1(a) and Rule 32:4.1(b).

E. Rule 32:8.4(b) and Iowa Code Sec. 602.10122

Rule 32:8.4(b) states it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. Iowa Code Sec. 602.10122 provides, in pertinent part, that conviction of a felony is sufficient cause for revocation or suspension of an attorney's license. The statute also provides that "the record of conviction is conclusive evidence." Analysis hereunder requires there must also exist sufficient link between the criminal activity and the attorney's ability to function as a lawyer. The Board has invoked and the Grievance Commission has applied the principles of issue preclusion in this matter. Springer cannot challenge the sufficiency of evidence to support the elements of the underlying charges for which he was convicted. At the conclusion of Springer's trial the jury was given the following instructions on the elements of bank fraud:

ONE, On or about the date alleged in the indictment, in the Southern District of Iowa, [Springer] knowingly executed a scheme to defraud a financial institution;

TWO, [Springer] did so with the intent to defraud; and

THREE, the financial institution was insured by The Federal Deposit Insurance Corporation or was a mortgage lending business.

The jury returned a verdict of guilty on seven counts of bank fraud.

The elements of the underlying charges for which Springer was convicted demonstrate Springer had a culpable mental state. Springer's criminal behavior involved actions he undertook as a lawyer in the course of representing clients. " . . . You [Springer] weren't the architect of it, but you did make it work. It wouldn't work without you and you used your position as a lawyer to accomplish it." (Excerpt from Judge Jarvey's comments at Springer sentencing. See Ex. C.) There was a pattern of criminal conduct encompassing seven separate transactions spanning over a two year period. It was determined Steven, Smith and Springer had a combined net gain from these offenses that exceeded \$200,000 and that amount of net gain was reasonably foreseeable to all of them. (Ex. 5, p. 4.) Springer's knowing and material misrepresentations bear directly upon his honesty, trustworthiness, and fitness as a lawyer.

The Grievance Commission finds there is more than a rational connection between Springer's convictions for bank fraud and his ability and fitness to practice law. The Grievance Commission concludes that application of the doctrine of issue preclusion establishes by a convincing preponderance of the evidence that Springer violated Rule 32:8.4(b).

Mitigating Factors Discussion

The Grievance Commission finds the following mitigating circumstances:

1. The record shows Springer has no prior record of discipline. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Lustgraaf*, 792 N.W.2d 295, 301-2 (Iowa 2010). The Grievance Commission finds this is a mitigating factor.
2. The Iowa Supreme Court considers voluntary community service a mitigating factor. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Boles*, 808 N.W.2d 431, 442 (Iowa

2012). The record establishes Springer has been active in community service throughout his career. The Grievance Commission finds this is a mitigating factor.

The Grievance Commission does not find a rational connection between Springer's claimed alcohol abuse or claimed mental health issues and his ethical violations. Further, the Grievance Commission did not find the alcohol and mental health related evidence and testimony credible. Accordingly, the Grievance Commission does not find these to be mitigating factors.

Springer in his post trial filing argues that the respect of other lawyers in the community is a mitigating circumstance herein. The Grievance Commission assigns greater weight to the testimony of attorney-character witnesses (Mark King and Kyle Coleman) who appeared before the Commission. The Grievance Commission does not find said witnesses' testimony, nor the balance of the character evidence received, sufficiently instructive upon the issue of respect for Springer within the legal community to make further finding in such regard.

The Grievance Commission considered, among others, the remaining mitigating circumstances set out by Springer in his post trial filing and declines to adopt them.

Aggravating Factors Discussion

The Grievance Commission finds the following aggravating circumstances:

1. The Iowa Supreme Court considers cases involving multiple rule violations to warrant a more severe sanction. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Netti*, 797 N.W.2d 591, 606 (Iowa 2011). The Grievance Commission found Springer violated multiple rules: Rules 32:1.2(d); 32:1.16(a)(1); 32:4.1(a); 32:4.1(b); and 32:8.4(b). The Grievance Commission finds multiple violations is an aggravating factor.

2. The Iowa Supreme Court considers the presence of a pattern of misconduct an aggravating factor which may give rise to enhanced sanctions. *Iowa Supreme Ct. Bd. Of Prof'l Ethics & Conduct v. Gallner*, 621 N.W.2d 183, 187 (Iowa 2001). The Grievance Commission finds that Springer's crimes involved seven separate transactions spanning over a two year period. The Grievance Commission finds this pattern of misconduct is an aggravating factor.

3. The Iowa Supreme Court considers a lawyer's experience in assessing his or her state of mind. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Bartley*, 860 N.W.2d 331, 339 (Iowa 2015). The Grievance Commission finds Springer to have been an experienced real estate at all times relevant to the violations alleged. The Grievance Commission finds this is an aggravating factor.

4. Respondent's refusal to admit wrongful conduct or show remorse is an aggravating factor. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Stowers*, 823 N.W.2d 1, 17 (Iowa 2012). Minimizing or failing to take responsibility for one's misconduct is an aggravating factor. *Iowa Supreme Ct. Bd. Of Prof'l Ethics & Conduct v. Tofflemire*, 689 N.W.2d 83, 93 (Iowa 2004). The attorney's failure to appreciate the wrongfulness of his or her actions is an aggravating factor. *Iowa Supreme Ct. Bd. Of Prof'l Ethics & Conduct v. Mulford*, 625 N.W.2d 672, 686 (Iowa 2001).

The Grievance Commission declines Springer's post trial invitation to characterize his acknowledgment of the applicability of the doctrine of issue preclusion as constituting remorse or cooperation with the Board. Springer's Answer denied those elements which were necessary for the offensive use of the doctrine of issue preclusion. Contested hearing

was scheduled and trial held upon the merits of the Complaint. Springer did participate. At the Grievance Commission hearing, however, Springer denied that his conduct violated any of the Rules of Professional Conduct charged by the Board in its Complaint.

Q. As we sit here today, do you admit that the HUD-1s you prepared in the seven transactions that were involved in your criminal case, do you admit that those HUD-1s were fraudulent vis-a-vis the lenders?

A. No.

Q. Do you admit that you knew the HUD-1s were fraudulent when they were prepared and submitted to the lenders?

A. No.

(Tr. p. 119, ll. 11-20.)

Q. First of all, I want to know, what is your position here today, not based upon preclusion, but just based upon the facts and circumstances, do you agree that you have violated the ethical provisions with which you have been charged to have violated in this proceeding?

A. No.

(Tr. p. 124, ll. 14-20.)

The Grievance Commission also notes Springer's testimony contains several instances of Springer's minimizing his misconduct or which otherwise illustrate Springer does not appreciate the wrongfulness of his actions.

"The bank was getting exactly what they wanted. My clients were going to make a little money. The sellers were going to get out of this bad debt. And buyers were happy that they were getting a new home. I didn't mean for anybody to get hurt, especially the banks. I thought I was actually helping them, giving them money." (Tr. p. 147, ll. 2-8.)

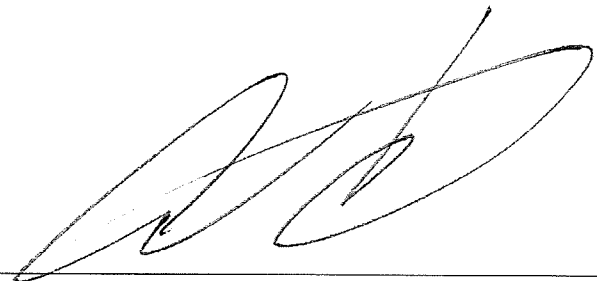
Springer's explanation of how he finds himself before the Grievance Commission is perhaps best summarized in his own words . . . that he got caught up in what was

an “almost perfect storm for [Springer].” (Tr. p. 139, l. 19.) The Grievance Commission finds the combination of Springer’s minimizing, failure to appreciate the wrongfulness of his actions, and refusal to admit wrongdoing, is an aggravating factor.

Recommendation

Based on the evidence submitted at the Grievance Commission hearing, mitigating circumstances found, aggravating circumstances, considering the nature of Springer’ violations, the protection of the public, deterrence of similar misconduct by others, Springer’s fitness to practice, our duty to uphold the integrity of the profession in the eyes of the public, and the sanctions given in similar cases, the Grievance Commission recommends that Springer’s license to practice law be revoked.

Dated: August 23, 2017



Chad A. Boehlje, #AT0001054
President 552nd Division
Iowa Supreme Court Grievance Commission